

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JUL 7 2000

JAMES W. MCCORMACK, CLERK

**FRANK STEVENSON and REBECCA HARSHBERGER,
ADMINISTRATRIX OF THE ESTATE OF
MARY E. STEVENSON, DECEASED**

DEP. CLERK

PLAINTIFFS

VS.

NO. H-C-99-160

UNION PACIFIC RAILROAD COMPANY

DEFENDANT

**PLAINTIFFS' RESPONSE TO DEFENDANT'S
MOTION FOR PROTECTIVE ORDER AND
PLAINTIFFS' MOTION IN LIMINE**

Come the Plaintiffs, by counsel, and for their Response to Defendant's Motion for Protective Order, state:

1. Plaintiffs have requested that the Defendant admit the genuineness and authenticity of sixty-eight depositions which were hand-delivered to Defendant's counsel. A request to admit genuineness and authenticity is a question that goes to issues of fact, not law.

2. As a practical matter, the Court has stated in a telephonic conference that Plaintiffs will identify those portions of the depositions they intend to introduce, so that Defendant may make any specific objections it has. The Court should defer

action on Defendant's Motion for Protective Order until such time (7/31/00) as the Plaintiffs designate the portions of the depositions they intend to introduce.

WHEREFORE, Plaintiffs pray that, following disclosure to Defendant as to those portions of the depositions contained in the requests which they intend to introduce, no action be taken by the Court. However, after those portions are disclosed to the Defendant, this Court should rule first, on whether the protective order should be overruled as being improperly made. (As stated, the Requests ask for admissions of fact, not law.)

After said disclosure, whether or not there are objections, this Court should rule *in limine* that the statements of UP officers, directors, and employees are admissible as admissions against interest, and are available for use by Plaintiffs under Rule 32, FRP.

Plaintiffs pray that, after 7/31/00, the Motion for Protective Order be denied; and further, that the Court rule *in limine* that the Plaintiffs are entitled to use those portions of the depositions which it has designated, as being genuine, authentic statements by officers, directors, and employees of the Defendant Railroad, and

available for use as admissions against the interests of the Railroad; and for all other proper relief.

EASLEY, HICKY & HUDSON

By: 

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CERTIFICATE OF SERVICE

I, B. MICHAEL EASLEY, attorney for the Plaintiffs in this cause, do hereby certify that I have served a copy of the above and foregoing pleading upon Mr. Scott H. Tucker, Attorney at Law, at his address at 2000 Regions Center, 400 West Capitol Avenue, Little Rock, AR 72201-3493 by posting a copy via regular U.S. Mail with sufficient postage thereon this 5 day of July, 2000.


B. MICHAEL EASLEY